

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARTIN LINVILLE,

Petitioner,

v.

UNKNOWN,

Respondent.

No. 2:22-cv-0057 AC P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF No. 7. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 18, 2022, the court ordered petitioner to file a petition on the court's form and to either pay the filing fee or file an application to proceed in forma pauperis. ECF No. 3. Petitioner was given thirty days to do so. Thereafter, in February 2022, petitioner requested and was granted a sixty-day extension of time to file the petition and either pay the filing fee or file an application to proceed in forma pauperis. See ECF Nos. 5, 6. At that time, petitioner was cautioned that failure to comply with the court's orders would result in a recommendation that this case be dismissed. ECF No. 6 at 2.

Petitioner has now filed a petition that conforms to Rule 3 of the Rules Governing Section 2254 cases. ECF No. 7. Petitioner has not, however, paid the filing fee or filed an application to proceed in forma pauperis as the law requires.

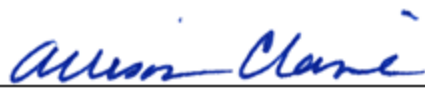
1 This matter may not proceed unless petitioner has either been granted permission to
2 proceed in forma pauperis or has paid the filing fee. See 28 U.S.C. §§ 1914(a), 1915(a)(1)-(2).
3 Petitioner has done neither, despite the fact that he was given ample time to do so. Therefore, the
4 undersigned will recommend that this action be dismissed.

5 Accordingly, IT IS HEREBY ORDERED that the Clerk of Court shall randomly assign a
6 United States District Judge to this action.

7 IT IS FURTHER RECOMMENDED that this matter be DISMISSED without prejudice
8 for failure to obey court orders and failure to either file an application to proceed in forma
9 pauperis or pay the filing fee.

10 These findings and recommendations are submitted to the United States District Judge
11 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
12 after being served with these findings and recommendations, petitioner may file written
13 objections with the court. Such a document should be captioned “Objections to Magistrate
14 Judge’s Findings and Recommendations.” Petitioner is advised that failure to file objections
15 within the specified time may waive the right to appeal the District Court’s order. Martinez v.
16 Ylst, 951 F.2d 1153 (9th Cir. 1991).

17 DATED: May 2, 2022

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19 ALLISON CLAIRE
20 UNITED STATES MAGISTRATE JUDGE
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